

Serial No. 10/782,794

proper linkage between the publication and the sale abroad to support a rejection under Elsner, an opinion that, in the view of the undersigned, is painfully incorrect.

The Examiner asserts on page 3 of the Office Action that, because the PBR application contained a photograph of the instant cultivar, a member of the public could have recognized same because of the two-toned flower coloration thereof, and moreover, had the photograph not been available, the publication of the PBR served notice on the public that the plant was available. Applicant respectfully and strongly disagrees with both of these assertions.

The size and color pattern of the bi-colored flowers of the instant cultivar are not peculiarly unique. Other chrysanthemum varieties developed by Dutch breeders and patented in the U.S. have similar flowers. The Examiner is referred to 'Orinoco' USPP 14,338 and 'Dektimman' USPP 16,010. Flowers of the former cultivar became commercially available in the Netherlands at around the same time as the instant cultivar. Thus, using only a photograph, one could not make a connection between the flowers purchased and the instant cultivar.

A PBR document, moreover, is not notice to the public that the variety can be commercially purchased. That information became available to the Examiner here following a reply to a 37 CFR 1.105

Serial No. 10/782,794

requirement for information. The conclusion cannot be drawn merely by the publication of a PBR document. Applicant respectfully submits that the claim is patentable and the rejection should be withdrawn.

The Examiner is again reminded that a Change of Correspondence Address was filed June 2, 2005. The most recent Office Action as well as the Office Action before that were mailed to an earlier address. The new address should be used. Under an abundance of caution, another Change of Correspondence Address is filed with this reply.

Respectfully submitted,

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Date: March 31, 2006

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New Attorney Docket No. 28967.0178
Old Attorney Docket No. CHRE:178